

FEDERAL RESERVE TRANSPARENCY ACT OF 2014

SEPTEMBER 16, 2014.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ISSA, from the Committee on Oversight and Government Reform, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany H.R. 24]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 24) to require a full audit of the Board of Governors of the Federal Reserve System and the Federal reserve banks by the Comptroller General of the United States, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
Committee Statement and Views	2
Section-by-Section	3
Explanation of Amendments	4
Committee Consideration	4
Correspondence	5
Application of Law to the Legislative Branch	7
Statement of Oversight Findings and Recommendations of the Committee	7
Statement of General Performance Goals and Objectives	7
Duplication of Federal Programs	7
Disclosure of Directed Rule Makings	7
Federal Advisory Committee Act	7
Unfunded Mandate Statement	7
Earmark Identification	7
Committee Estimate	8
Budget Authority and Congressional Budget Office Cost Estimate	8
Changes in Existing Law Made by the Bill as Reported	9
Minority Views	13

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Federal Reserve Transparency Act of 2014”.

SEC. 2. AUDIT REFORM AND TRANSPARENCY FOR THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

(a) IN GENERAL.—Notwithstanding section 714 of title 31, United States Code, or any other provision of law, the Comptroller General shall complete an audit of the Board of Governors of the Federal Reserve System and the Federal reserve banks under subsection (b) of such section 714 within 12 months after the date of the enactment of this Act.

(b) REPORT.—

(1) IN GENERAL.—Not later than 90 days after the audit required pursuant to subsection (a) is completed, the Comptroller General—

(A) shall submit to Congress a report on such audit; and

(B) shall make such report available to the Speaker of the House, the majority and minority leaders of the House of Representatives, the majority and minority leaders of the Senate, the Chairman and Ranking Member of the committee and each subcommittee of jurisdiction in the House of Representatives and the Senate, and any other Member of Congress who requests the report.

(2) CONTENTS.—The report under paragraph (1) shall include a detailed description of the findings and conclusion of the Comptroller General with respect to the audit that is the subject of the report, together with such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate.

(c) REPEAL OF CERTAIN LIMITATIONS.—Subsection (b) of section 714 of title 31, United States Code, is amended by striking the second sentence.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—Section 714 of title 31, United States Code, is amended—

(1) in subsection (d)(3)—

(A) in subparagraph (A)—

(i) by striking “or (f)”; and

(ii) in clause (i), by striking “or (f)”; and

(iii) in clause (ii), by striking “or (f)”; and

(B) in subparagraph (C), by striking “or (f)”; and

(2) by striking subsection (f).

COMMITTEE STATEMENT AND VIEWS

PURPOSE AND SUMMARY

H.R. 24 empowers the Government Accountability Office (GAO), the investigative arm of Congress, to conduct a full audit of the Federal Reserve.

LEGISLATIVE HISTORY

The Federal Reserve System was created by Congress in 1913, and Congress has delegated to it the power, enumerated in Article I, Section 8 of the Constitution, to regulate the supply and value of money. The Federal Reserve struggled in its early years to achieve independence from the Executive Branch, in particular the Treasury Department, with respect to monetary policy. Independence from the Executive Branch is an essential safeguard against the manipulation of the money supply for short-term political gain. Congress also chose to impose certain restrictions on its own access to information about the Federal Reserve’s actions with respect to monetary policy. These restrictions, however, hinder the ability of Congress—and ultimately the American people—to make informed decisions about the Federal Reserve’s use of its congressionally delegated authority.

H.R. 24 explicitly lifts these unnecessary restrictions on Congressional access to information about the Federal Reserve, thereby restoring the ability of the Legislative Branch to conduct oversight of the central bank's exercise of its constitutionally delegated authority. The intent of this legislation is to allow Congress to make informed decisions about the Federal Reserve's use of the powers delegated to it by lawmakers by increasing the transparency and accountability of the Federal Reserve to Congress.

Increasing the transparency and accountability of the Federal Reserve to Congress has become all the more important in light of the expansion of the Federal Reserve's balance sheet since the financial crisis of 2008–2009. When Wall Street investment bank Lehman Brothers collapsed in September 2008, marking the start of the crisis, the balance sheet of the Federal Reserve stood at \$900 billion, a sum accumulated over the prior 93 years of the central bank's existence. Yet, as a result of the Federal Reserve's unprecedented emergency actions in response to the crisis, within seven weeks of the collapse of Lehman Brothers, the Federal Reserve's balance sheet had doubled to \$1.8 trillion, and within another six weeks it had reached \$2.4 trillion. Even after the crisis abated, the Federal Reserve continued to expand its balance sheet, which stood at approximately \$4.3 trillion as of August 2014. This expansion occurred primarily through unconventional means of influencing the money supply, such as quantitative easing and the creation of dollar swap lines with the European Central Bank to provide assistance to failing European banks. These actions can profoundly affect the economic and fiscal health of the United States, and Congress should have greater access to information about them.

SECTION-BY-SECTION

This section-by-section pertains to the amendment in the nature of a substitute offered by Chairman Issa, which was agreed to by voice vote.

Section 1. Short title

Section 1 establishes the short title of the bill as the “Federal Reserve Transparency Act of 2014.”

Section 2. Audit reform and transparency for the Board of Governors of the Federal Reserve System

Section 2 directs GAO to conduct an audit within 12 months of the date of enactment, with a report to be delivered to Congress within 90 days of completion of the audit. The audit must include a detailed description of the findings of the audit with GAO's recommendations for legislative and administrative action. Section 2 also removes the restrictions placed on GAO's ability to audit the Federal Reserve contained in 31 U.S.C. § 714. Finally, Section 2 makes a technical correction to 31 U.S.C. § 714 by removing language, included in the Dodd-Frank Act, which explicitly provided for GAO's audit of the Federal Reserve's use of certain emergency authorities, because this language would be rendered redundant by passage of the Act.

EXPLANATION OF AMENDMENTS

The Section-by-Section summary reflects the Amendment in Nature of Substitute offered by Chairman Issa and agreed to by a voice vote.

COMMITTEE CONSIDERATION

On July 24, 2014, the Committee met in open session and ordered reported favorably the bill, H.R. 24, as amended, by voice vote, a quorum being present.

CORRESPONDENCE

JEB HENSARLING, TX, CHAIRMAN

United States House of Representatives
 Committee on Financial Services
 2129 Rayburn House Office Building
 Washington, D.C. 20515

MAXINE WATERS, CA, RANKING MEMBER

September 12, 2014

HAND-DELIVERED

The Honorable Darrell Issa
 Chairman
 House Committee on Oversight and Government Reform
 2157 Rayburn House Office Building
 Washington, DC 20515

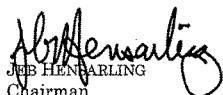
Dear Chairman Issa:

On July 24, 2014, the Committee on Oversight and Government Reform ordered H.R. 24, the Federal Reserve Transparency Act of 2013, as amended, to be reported favorably to the House. As a result of your having consulted with the Committee on Financial Services concerning provisions of the bill that fall within our Rule X jurisdiction, I agree to discharge our committee from further consideration of the bill so that it may proceed expeditiously to the House Floor.

The Committee on Financial Services takes this action with our mutual understanding that, by foregoing consideration of H.R. 24, as amended, at this time, we do not waive any jurisdiction over the subject matter contained in this or similar legislation, and that our committee will be appropriately consulted and involved as the bill or similar legislation moves forward so that we may address any remaining issues that fall within our Rule X jurisdiction. Our committee also reserves the right to seek appointment of an appropriate number of conferees to any House-Senate conference involving this or similar legislation, and requests your support for any such request.

Finally, I would appreciate your response to this letter confirming this understanding with respect to H.R. 24, as amended, and would ask that a copy of our exchange of letters on this matter be included in your committee's report to accompany the legislation and/or in the *Congressional Record* during floor consideration thereof.

Sincerely,


 JEB HENSARLING
 Chairman

cc: The Honorable John A. Boehner (via e-mail)
 The Honorable Maxine Waters (via e-mail)
 The Honorable Elijah E. Cummings (via e-mail)
 Mr. Thomas J. Wickham, Jr. (via e-mail)

DARRELL F. ISSA, CALIFORNIA
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LAWRENCE J. BRADY
STAFF DIRECTOR

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter regarding the Committee on the Financial Services' jurisdictional interest in H.R. 24, the "Federal Reserve Transparency Act of 2013," and your willingness to forego consideration of H.R. 24 by your committee.

I agree that the Committee on Financial Services has a valid jurisdictional interest in certain provisions of H.R. 24 and that the Committee's jurisdiction will not be adversely affected by your decision to forego consideration of H.R. 24. As you have requested, I will support your request for an appropriate appointment of outside conferees from your Committee in the event of a House-Senate conference on this or similar legislation should such a conference be convened.

Finally, I will include a copy of your letter and this response in the Committee Report and in the *Congressional Record* during the floor consideration of this bill. Thank you again for your cooperation.

Sincerely,

Darrell Issa
Chairman

cc: The Honorable John Boehner, Speaker of the House

The Honorable Elijah Cummings, Ranking Minority Member
Committee on Oversight and Government Reform

The Honorable Maxine Waters, Ranking Minority Member
Committee on Financial Services

Mr. Tom Wickham, Parliamentarian

ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States

House of Representatives

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VACANCY

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill empowers the GAO to conduct a full audit of the Federal Reserve. As such this bill does not relate to employment or access to public services and accommodations.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report.

DUPLICATION OF FEDERAL PROGRAMS

No provision of H.R. 24 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that enacting H.R. 24 does not direct the completion of any specific rule makings within the meaning of 5 U.S.C. 551.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104–4) requires a statement as to whether the provisions of the reported include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

EARMARK IDENTIFICATION

H.R. 24 does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 24. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 24 from the Director of Congressional Budget Office:

SEPTEMBER 12, 2014.

Hon. DARRELL ISSA,
Chairman, Committee on Oversight and Government Reform, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 24, the Federal Reserve Transparency Act of 2013.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 24—Federal Reserve Transparency Act of 2014

H.R. 24 would amend federal law regarding audits of the Federal Reserve System. Specifically, the bill would direct the Government Accountability Office (GAO) to prepare, within 12 months of enactment, an audit of the Board of Governors of the Federal Reserve System and the Federal Reserve banks. The bill would also repeal prohibitions under current law that prevent GAO from auditing the Federal Reserve's monetary policy and any of the Federal Reserve's transactions involving a foreign central bank, the government of a foreign country, or a nonprivate international financing organization. CBO expects that the removal of those prohibitions would result in future requests from Members of Congress for GAO to conduct additional oversight and analysis of the Federal Reserve System on a periodic basis.

Based on information from GAO regarding the amount of effort required for its previous audit of the Federal Reserve, which was required by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111–203), CBO estimates that implementing H.R. 24 would increase discretionary spending by \$5 million over the 2015–2019 period, assuming appropriation of the necessary amounts. That cost would cover the full-time and part-time

GAO employees plus administrative expenses necessary to prepare the audit required by the bill as well as future oversight and analysis that CBO expects would result from the enactment of the bill.

In addition, based on information provided by the Federal Reserve and on information provided by GAO regarding the likely costs of similar proposals regarding oversight of the Federal Reserve, CBO estimates that enacting H.R. 24 would increase costs of the Federal Reserve and thus decrease federal revenues by less than \$500,000 in each year of the 2015–2024 period, and by \$3 million in total over that period. That estimate of revenue reductions reflects higher costs of the Federal Reserve System associated with coordination of the initial audit and future GAO oversight and analysis. Because enacting H.R. 24 would affect revenues, pay-as-you-go procedures apply. CBO estimates that enacting H.R. 24 would not affect direct spending.

H.R. 24 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contacts for the estimate are Matthew Pickford (for federal costs) and Nathaniel Frentz (for revenues). The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis, and David Weiner, Assistant Director for Tax Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets and existing law in which no change is proposed is shown in roman):

TITLE 31, UNITED STATES CODE

* * * * *

SUBTITLE I—GENERAL

* * * * *

CHAPTER 7—GOVERNMENT ACCOUNTABILITY OFFICE

* * * * *

SUBCHAPTER II—GENERAL DUTIES AND POWERS

* * * * *

§ 714. Audit of Financial Institutions Examination Council, Federal Reserve Board, Federal reserve banks, Federal Deposit Insurance Corporation, and Office of Comptroller of the Currency

(a) * * *

(b) Under regulations of the Comptroller General, the Comptroller General shall audit an agency, but may carry out an onsite examination of an open insured bank or bank holding company

only if the appropriate agency has consented in writing. [Audits of the Board and Federal reserve banks may not include—

[(1) transactions for or with a foreign central bank, government of a foreign country, or nonprivate international financing organization;

[(2) deliberations, decisions, or actions on monetary policy matters, including discount window operations, reserves of member banks, securities credit, interest on deposits, and open market operations;

[(3) transactions made under the direction of the Federal Open Market Committee; or

[(4) a part of a discussion or communication among or between members of the Board and officers and employees of the Federal Reserve System related to clauses (1)-(3) of this subsection.]

* * * * *

(d)(1) * * *

* * * * *

(3)(A) For purposes of conducting audits and examinations under subsection (e) [or (f)], the Comptroller General shall have access, upon request, to any information, data, schedules, books, accounts, financial records, reports, files, electronic communications, or other papers, things or property belonging to or in use by—

(i) any entity established by any action taken by the Board or the Federal Reserve banks described under subsection (e) [or (f)];

(ii) any entity participating in or receiving assistance from any action taken by the Board or the Federal Reserve banks described under subsection (e) [or (f)], to the extent that the access and request relates to that assistance; and

* * * * *

(C) Each contract, term sheet, or other agreement between the Board or any Federal reserve bank (or any entity established by the Board or any Federal reserve bank) and an entity receiving assistance from any action taken by the Board described under subsection (e) [or (f)] shall provide for access by the Comptroller General in accordance with this paragraph.

* * * * *

[(f) AUDITS OF CREDIT FACILITIES OF THE FEDERAL RESERVE SYSTEM.—

[(1) DEFINITIONS.—In this subsection, the following definitions shall apply:

[(A) CREDIT FACILITY.—The term “credit facility” means a program or facility, including any special purpose vehicle or other entity established by or on behalf of the Board of Governors of the Federal Reserve System or a Federal reserve bank, authorized by the Board of Governors under section 13(3) of the Federal Reserve Act (12 U.S.C. 343), that is not subject to audit under subsection (e).

[(B) COVERED TRANSACTION.—The term “covered transaction” means any open market transaction or discount window advance that meets the definition of “covered transaction” in section 11(s) of the Federal Reserve Act.

[(2) AUTHORITY FOR AUDITS AND EXAMINATIONS.—Subject to paragraph (3), and notwithstanding any limitation in subsection (b) on the auditing and oversight of certain functions of the Board of Governors of the Federal Reserve System or any Federal reserve bank, the Comptroller General of the United States may conduct audits, including onsite examinations, of the Board of Governors, a Federal reserve bank, or a credit facility, if the Comptroller General determines that such audits are appropriate, solely for the purposes of assessing, with respect to a credit facility or a covered transaction—

[(A) the operational integrity, accounting, financial reporting, and internal controls governing the credit facility or covered transaction;

[(B) the effectiveness of the security and collateral policies established for the facility or covered transaction in mitigating risk to the relevant Federal reserve bank and taxpayers;

[(C) whether the credit facility or the conduct of a covered transaction inappropriately favors one or more specific participants over other institutions eligible to utilize the facility; and

[(D) the policies governing the use, selection, or payment of third-party contractors by or for any credit facility or to conduct any covered transaction.

[(3) REPORTS AND DELAYED DISCLOSURE.—

[(A) REPORTS REQUIRED.—A report on each audit conducted under paragraph (2) shall be submitted by the Comptroller General to the Congress before the end of the 90-day period beginning on the date on which such audit is completed.

[(B) CONTENTS.—The report under subparagraph (A) shall include a detailed description of the findings and conclusions of the Comptroller General with respect to the matters described in paragraph (2) that were audited and are the subject of the report, together with such recommendations for legislative or administrative action relating to such matters as the Comptroller General may determine to be appropriate.

[(C) DELAYED RELEASE OF CERTAIN INFORMATION.—

[(i) IN GENERAL.—The Comptroller General shall not disclose to any person or entity, including to Congress, the names or identifying details of specific participants in any credit facility or covered transaction, the amounts borrowed by or transferred by or to specific participants in any credit facility or covered transaction, or identifying details regarding assets or collateral held or transferred by, under, or in connection with any credit facility or covered transaction, and any report provided under subparagraph (A) shall be redacted to ensure that such names and details are not disclosed.

[(ii) DELAYED RELEASE.—The nondisclosure obligation under clause (i) shall expire with respect to any participant on the date on which the Board of Governors, directly or through a Federal reserve bank,

publicly discloses the identity of the subject participant or the identifying details of the subject assets, collateral, or transaction.

[(iii) GENERAL RELEASE.—The Comptroller General shall release a nonredacted version of any report on a credit facility 1 year after the effective date of the termination by the Board of Governors of the authorization for the credit facility. For purposes of this clause, a credit facility shall be deemed to have terminated 24 months after the date on which the credit facility ceases to make extensions of credit and loans, unless the credit facility is otherwise terminated by the Board of Governors.

[(iv) EXCEPTIONS.—The nondisclosure obligation under clause (i) shall not apply to the credit facilities Maiden Lane, Maiden Lane II, and Maiden Lane III.

[(v) RELEASE OF COVERED TRANSACTION INFORMATION.—The Comptroller General shall release a non-redacted version of any report regarding covered transactions upon the release of the information regarding such covered transactions by the Board of Governors of the Federal Reserve System, as provided in section 11(s) of the Federal Reserve Act.]

* * * * *

MINORITY VIEWS

The United States Federal Reserve System is an independent central bank, and its monetary policy actions are not subject to approval by other entities. This independence is critical to the ability of the Board of Governors of the Federal Reserve to pursue monetary policies it considers most responsive to the nation's current economic conditions and most likely to fulfill its dual mandate of promoting maximum employment and stable prices.

The Federal Banking Agency Audit Act of 1978 established that the Federal Reserve System may be audited by the Government Accountability Office (GAO), and regular audits have been conducted since that date. However, that Act included protections now codified in 31 U.S.C. 714(b) to ensure that the Federal Reserve's monetary policymaking remains independent from outside political influence.

In 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act expanded the types of audits GAO may conduct of the Federal Reserve, as well as the data that regularly must be disclosed to the public by the Federal Reserve.

For example, the Dodd-Frank Act required GAO to audit the emergency financial assistance provided by the Federal Reserve during the financial crisis. The Act also added a new subsection (f) to 31 U.S.C. 714 which opens the transactions and discount window operations authorized under section 11(s) of the Federal Reserve Act to audit so GAO can assess their operational integrity and internal controls, the effectiveness of security and collateral policies, the fairness to all institutions of such transactions, and the policies governing the use of third-party contractors engaged to manage such transactions.

The Dodd-Frank Act required the Federal Reserve to post on its website all GAO reports, annual financial statements, reports to Congress, and any other information "necessary or helpful to the public in understanding the accounting, financial reporting and internal controls of the Board and Federal Reserve banks."

In addition, the Dodd-Frank Act required the Federal Reserve to release information regarding borrowers and counterparties participating in emergency credit facilities, discount lending programs, and open market operations, including the names of the parties, the amount borrowed by or transferred to the participant or counterparty, the interest rate or discount and the collateral pledged. The information must be released within one year of the termination of a credit facility, and within two years of a discount lending transaction or open market operation.

The Dodd-Frank Act was carefully crafted to expand transparency surrounding the Federal Reserve's operations without impeding its ability to carry out the critical responsibility of independently setting our nation's monetary policy.

H.R. 24 would significantly alter this balance by permanently repealing the provisions in 31 U.S.C. 714(b). GAO would be permitted to audit the Federal Reserve's transactions with foreign central banks and transactions conducted under the direction of the Federal Open Market Committee. GAO also would be able to audit the Federal Reserve's internal deliberations on monetary policy matters, as well as discussions or communications Members of the Board have with each other and with staff of the Federal Reserve System regarding monetary policy.

There is significant concern that opening the Federal Reserve's monetary policy deliberations to GAO audit in this way—including audits conducted without any significant elapse of time from the point of decision—could influence how such deliberations are conducted and potentially even the policies that are chosen, thus degrading the independence of the Federal Reserve.

If all restrictions on GAO's ability to audit the Federal Reserve's deliberative processes are removed, Members of Congress could actively seek to influence the Federal Reserve's deliberations by the types and subjects of audits they request of GAO. Members of Congress could also seek to obtain the materials GAO assesses when performing its audits, including documents related to the Federal Reserve's deliberations.

The Committee passed similar legislation in the 112th Congress (H.R. 459), but has still held no hearings on this legislation and has heard from no witnesses regarding its potential consequences. Moving forward on this bill without calling a single witness from the Federal Reserve may result in many unforeseen and potentially damaging consequences.

ELIJAH E. CUMMINGS.

